

6000 CLOSING THE AUDIT

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6010 THE AUDIT REPORT PACKAGE

The product of the audit process is the Audit Report Package, which is used to communicate and support the audit recommendation. It includes the following:

- Adjustment Schedules
- Narrative Report, form FTB 6431 (PASS)
- Workpaper File (See **MAPM 4030**)
- Exhibits
- Forms, including:
 - FTB 6430, AUDIT REPORT (See **MAPM 7070**)
 - FTB 6830, NPA WORKSHEET (See **MAPM 7020**)
 - FTB 6638, AUDITOR'S RECOMMENDATION – FORMAL CLAIM (See **MAPM 7050**)
 - FTB 6163, ABATEMENT/REFUND MEMO (See **MAPM 7110**)
- Tax Returns

Specific instructions on the preparation of the above are contained in the section specified above, but all circumstances cannot be anticipated. Questions that remain after review and application of available specific instructions can generally be resolved by the auditor and supervisor by following the guideline in the Completed Audit Evaluation, form FTB 6502E that states:

Taken as a whole, do the narrative, exhibits, schedules and workpapers constitute a self-supporting report where a reviewer, attorney or other interested party can readily obtain an accurate and complete picture of what was done on the audit, and if necessary, defend the auditor's proposals without assistance from the auditor?

COMPLETION OF AUDIT

The auditor must turn in the case into their supervisor with at least 6 months left on the statute and the case must be submitted to Review in Sacramento with at least 4 months left on the statute. (See **MAPM 9000** for statute of limitations information). This is necessary to provide sufficient time for the review process and allow for any possible further contact with the taxpayers if required. If the statute of limitations will expire within 90 days after the file leaves the unit, a form FTB 7011 (RUSH) must be completed and attached to the front of the file when the case is submitted for review. (See **MAPM 7090** for completing form FTB 7011)

If the statute will expire less than four months after the case is submitted to review, circle in red the statute date on form FTB 6430. In addition, the supervisor shall include a note describing the circumstances surrounding the case which resulted in it being submitted within four months of the statute of limitations. The program manager shall approve the submission.

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CHECK LIST FOR CLOSING CASES ON PASS

FOR EACH CASE UNIT:

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COMPLETED CASES - * * * * *

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LIM DATES

For retention purposes, returns should have a "LIM" date so the returns will not be destroyed.
See **MAPM 3130** for LIM date instructions.

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6020 ADJUSTMENT SCHEDULES

It is important that staff communicates and support their audit recommendations. Adjustment Schedules should start with the amounts reported on the return followed by the applicable audit adjustments with references to the relevant taxpayer's document and the supporting schedules. The applicable section of the law or regulations may also be referenced. Thorough footnoting, when feasible, and thorough cross-referencing of schedules is important.

All Schedules should include the following information:

- **HEADING:**
 - Key Corporation's Name
 - Type of Schedule
 - Taxable Years
- Date completed and initials
- Schedule number
- Taxable years indicated in columns
- All copies of schedules, workpapers, and exhibits furnished to the representative must indicate "Copy furnished to (name of representative) on (date)."

6030 NARRATIVE REPORT

The quality of audit workpaper files is critical to our ability to support audit recommendations at the protest, appeals and court levels. The audit adjustments need to be explained in a Narrative Report for those who defend the audit proposals or otherwise use the report. To eliminate redundancy, a copy of the written explanation of adjustments or copies of the Audit Issue Presentation Sheets (AIPS) that are given to the taxpayer can be attached to the narrative.

PURPOSE OF THE NARRATIVE REPORT

The narrative is a report that explains what the auditor found and the basis of the recommendations. It should do this without the need for additional consultation with the auditor. The workpaper file will provide an understanding of the auditor's methodology and the supporting factual documentation obtained during the audit. It is the workpaper file that provides the basis for the Explanation of Adjustments provided to the representative and serves as the foundation for this report.

It is critical that the facts, the auditor's application of the law, and departmental policies and procedures be clearly communicated to all users. It is important that the auditor and taxpayer/representative agree on the facts of the case. If the facts are not agreed upon at the audit level, the narrative should include an explanation of the disagreement with reference to supporting documents.

The following guidelines are provided for the preparation of this report. A shell for the narrative can be found in the *****. Use judgment in applying these objectives:

OBJECTIVES:

1. To provide a clear statement of the audit recommendation.
2. To provide a summary of proposed adjustments and their tax effect.
3. To identify areas in which existing department policy may require clarification or modification.
4. To provide any additional information which may be necessary for an understanding of the audit.

WRITTEN EXPLANATION OF ADJUSTMENTS:

The auditor must provide the taxpayer/representative with a copy of the audit schedules and a written explanation of the basis for the proposed adjustments.

The written explanation must contain a list of the adjustments and, at a minimum, the following information:

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1. The factual basis to support each adjustment.
2. The authority supporting the adjustment.
3. The taxpayer/representative's position on each adjustment.
4. Comment on any unadjusted issues in the current audit cycle that may have an effect on a subsequent audit cycle.

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6040 OUTLINE FOR NARRATIVE REPORT

A narrative report should provide a clear summary of the audit. Following is a guideline.

Judgment must be used in determining the detail included. * * * * *

* * * * * The narrative usually would include at least the following:

CORPORATION NAME, #0000000 Taxable Years: (Audited or Returns in File)

The heading is centered at the top of the report. It includes the corporation's name, corporate number and the Taxable years audited.

LOCATION OF AUDIT

Identify the address where the audit was performed.

Notice Mailing Address

Identify the address where the taxpayer wants the notice mailed if other than the "primary" address listed in BETS * * * See MAPM 7020. The "primary" address listed in BETS is taken from the last return filed.

TAXPAYER'S REPRESENTATIVES

List names, titles and phone numbers of representatives.

RELATED CALIFORNIA CORPORATIONS

List all affiliated California taxpayers and the California number. Indicate whether combined or not combined. Taxable Years: Audited or returns in the file.

STATUTE OF LIMITATIONS

Earliest statute date. Indicate if extended by state or federal waivers. If statute extended for any other reason, include explanation.

FILE ORGANIZATION

Include the name and tax year of the case unit where the audit workpapers are located in PASS. This will ensure that subsequent users of the audit package can easily locate all workpapers.

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References to "primary case unit" should be avoided as the primary case unit can change throughout the audit-protest-appeal cycle.

BACKGROUND INFORMATION AND PERTINENT FACTS

Indicate if the taxpayer was previously audited and if so, the audit recommendation and the status of those audits (e.g. in protest, appeal, litigation, etc.).

Discuss the nature of the corporation's business both within and without California. Discuss any acquisitions and dispositions.

AUDIT ADJUSTMENTS

List each audit adjustment and the tax change by year.

<u>Issue</u>	<u>Year</u>	<u>Amount</u>	<u>Tax Effect</u>	<u>W/P Reference</u>
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TAXPAYER'S RECORDS EXAMINED (Optional)

List the records examined, noting the taxpayer's document title. Although this is optional for narrative purposes, a detailed and specific reference to the taxpayer's and representative's records used in the audit process must be included in the workpapers.

EXHIBITS

List documents labeled as exhibits. (NOTE: Closing letters to the representative providing the written explanation of each adjustment, the representative's position letters and subsequent letters of rebuttal should be included as exhibits.)

Provide a description of the significance of each exhibit. Most documents are included with the workpaper file. Large or cumbersome documents, such as Annual Reports, SEC Forms 10-K, or documents prepared by the representative in support of an audit issue, may not lend themselves to inclusion in the workpaper file. These documents should be labeled as Exhibits (A, B, etc.), and referenced or cross-referenced in the appropriate workpaper sections where their significance or evaluation has been recorded.

METHOD OF FILING

Indicate briefly whether the taxpayer is filing on a totally combined basis (worldwide or water's-edge), partially combined basis or separate basis. If the taxpayer is a water's-edge filer, indicate

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the start date of the water's-edge contract and whether or not a Notice of Nonrenewal has been filed.

List in an exhibit or in the body of this report, all affiliates in and out of the combined report.

Describe acquisitions and dispositions of corporations during the years covered by audit.

Refer to the workpaper file or exhibits when citing facts relating to the following areas:

- Organizational structure of subsidiaries and affiliates.
- Ownership (acquired or formed).
- Nature of business of each affiliate.
- Line functions: Common interlocking officers and directors.
- Staff functions: Centralized accounting, legal, purchasing, advertising, personnel, sales and other shared functions.
- Details of all intercompany transactions, including accounts, amounts, percent to total and other relevant information.

PROPOSED ADJUSTMENTS

Adjustments should be listed by issue and tax change for each year. Reference the Audit Issue Section.

The written explanation of adjustments that was provided to the representative must be attached to this summary as an explanation of the proposed adjustments.

UNADJUSTED ISSUES

Provide a brief explanation of the unadjusted issues examined. For each item, comment on:

- Issues considered during the audit that were not fully developed.
- Issues developed that resulted in an immaterial or no tax change.
- Future audit issues

FEDERAL AUDIT ADJUSTMENTS

Indicate date of RAR and date submitted to FTB in cases where the RAR is received in the field. Refer to the applicable Audit Issue Section for state adjustments based on the RAR.

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Indicate last Taxable years audited, and status of audit for current taxable years. If an audit is in progress, state the years being audited by the IRS.

OTHER AREAS THAT MAY WARRANT DISCUSSION

Other significant areas, or items that may have an impact on the taxpayer, or the adjustments proposed, should be discussed under a separate heading. Examples of these are:

- TAXABILITY, NEXUS
- CLAIMS FOR REFUND
- JEOPARDY ASSESSMENTS
- BANKRUPTCY
- TAX CLEARANCE
- POST-DISSOLUTION AUDIT
- UNDOCKETED PROTEST
- NET INCOME

How was income reported (basis and source)?

What sources were examined to verify income?

What method and sources were used to determine net income as revised by audit?

Reconcile differences between book and state net income. Refer to working papers. It is mandatory to reconcile or explain why income was not reconciled.

What method and sources were used to determine net income as revised by audit?

STATE ADJUSTMENTS

Examples of state adjustments include:

TAXES MEASURED BY INCOME
SCHEDULE M-1 INTEREST
ADR/ACRS DEPRECIATION
CONTRIBUTIONS
CAPITAL LOSSES
INTERCOMPANY DIVIDENDS
NEW JOB TAX CREDIT
OTHER TAX CREDITS

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Identify method of reporting and list source documents examined to verify reported amounts. Explain differences. Indicate how audit adjustments were computed and indicate sources of information.

CAUTION: Material tax credits require audit analysis, and comment in the narrative. The decision not to pursue an audit of a material tax credit must be explained. There are numerous differences between state and federal law.

BUSINESS AND NONBUSINESS INCOME

Mention items and amounts originally treated as nonbusiness income or loss.

Specify source documents examined to determine treatment of items as business or nonbusiness.

Describe how the items were treated per the audit. Explain the basis for this treatment.

Examples of business and nonbusiness headings are:

**DIVIDENDS
INTEREST
RENTS
ROYALTIES
GAINS AND LOSSES ON SALE OF ASSETS**

APPORTIONMENT FORMULA

Property Factor

Total Property:

Generally, apportionment factors should be reconciled to audited financial statements. Any material differences should be explained.

Source documents need to be examined to verify amounts. Cross-references to related working papers and exhibits must be provided.

Differences must be explained.

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An explanation of how the factor was adjusted during the audit must be provided. Indicate any intercompany transactions.

California Property:

Describe the same four items listed under Total Property, above.

Payroll Factor

Total Payroll:

Describe the same four items listed under Total Property, above.

California Payroll:

Describe the same four items listed under Total Property, above.

Sales Factor

Total Sales:

Describe the same four items listed under Total Property, above.

California Sales:

Describe the same four items listed under Total Property, above.

INTRASTATE APPORTIONMENT

Discuss whether an **Authorization for Single Billing**, form FTB 4523B, is necessary or whether separate billing is required. See **MAPM 7080**.

Intrastate apportionment is required in all cases. If it is not performed, the auditor needs to clearly show that intrastate apportionment was not necessary under the circumstances. If the previously assessed tax was not intrastated by the taxpayer, then the auditor must intrastate the previously assessed tax based on the figures as originally filed. (See MATM 7900 for further details.)

The auditor must be familiar with the following sections of the Multistate Audit Technique Manual, MATM 5000, and MATM 7000 - MATM 7900.

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RECOMMENDATIONS

Comment on how notices are to be issued (e.g. form FTB 6830). Explain treatment required in issuing NPAs. For example, "Representative declined to sign a consent for a single billing. Separate notices must be issued."

If multiple notices are to be issued, be specific.

STATEMENT OF REPRESENTATIVE

A clear statement of the representative's position to the audit proposals is required. Explain adjustments to which the taxpayer does not agree, why there is disagreement and what support was presented by the representative regarding this issue. The reasons should be explained in sufficient detail so that the protest attorney or the hearing officer will be fully informed of issues and arguments considered during the audit. Whenever possible, the representative's position should be obtained in writing.

IMPORTANT: The critical part of the audit is gathering facts. It is essential that the auditor make every effort to reach agreement with the representative on the facts presented at audit. This is **mandatory** in all cases even if the representative does not agree with the application of law or has not provided information.

If the representative has not provided or refuses to provide information to substantiate an issue, this fact must be fully documented in the audit file (correspondence, progress report, audit notes, etc.). The procedures for issuing the "Failure to furnish information" penalty must be followed. See **MAPM 8040**.

CLOSING SECTION (Optional)

The auditor may also add a statement of the supervisor's comments in addition to the auditor's and supervisor's names and the date.

Auditor's Name Date

Supervisor's Name Date

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6050 "WALKER LETTER SITUATIONS"

A "Walker" letter is used in situations in which a possible refund exists after the auditor performs preliminary combination tests based on unity. Since one of the department's primary responsibilities is to perform audits on an equitable basis, the "Walker" letter is a vehicle to officially notify the taxpayer that a possible refund exists based on preliminary audit work. The auditor must use judgment in determining whether the refund potential is reasonable. When notifying the taxpayer, it is important to stress that only preliminary audit work has been performed and that it is the taxpayer's responsibility to file a claim for refund and provide documentation necessary to develop the facts.

REVENUE AGENT'S REPORT (RAR) CONSIDERATIONS:

In the case of a "Walker" letter situation with an RAR, the RAR should be processed, regardless of the disposition of the case. For example, the RAR should be forwarded to the RAR Unit in Central Office for processing in the following situations:

1. The representative chooses to pursue the refund.
2. The representative chooses not to pursue the refund.
3. The auditor proposes adjustments based upon other significant items besides the method of reporting.
4. The returns are accepted as filed.

See the following samples of Walker letters. CAUTION: These are examples only. Each case must have a letter designed to cover the situation.

Example 1**Date****Corporate Name****Corporate Address****Attention:****Taxable Year(s):**

Based on preliminary audit work, it appears that the following companies* may be unitary. If they were included as a part of your unitary business for the year(s) shown above, it

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might result in a change of the corporation's California franchise tax paid for those year(s):

* (List companies. If only one or two, name them in the above paragraph. Other wording such as "worldwide combination" or "total combination" or "all subsidiaries" may be used.

It appears that extensive work would be required to develop the facts to support a change of these taxes. Due to staff limitations, I am not able to make an exact determination.

If the company desires to pursue a possible refund, a claim for refund, with complete supporting detail, should be prepared and submitted to me for each year that is not barred by the statute of limitations. I will review the information and advise you of the result. Additional audit work may be required, and may result in allowing or disallowing the claim, or in proposing additional tax.

If I do not receive a statement of the corporation's position within 20 days, I will base my audit on available information and recommend whatever tax change is indicated.

If the corporation does not wish to claim a refund resulting from a combined report, the Franchise Tax Board may make adjustments necessary to properly reflect the California income in any future years.

CAUTION: This is a model letter only. It should be written to meet the situation in each case. Time allowed for reply should be extended as required.

Auditor
Telephone number

Example 2

Date

Corporate Name
Corporate Address

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Attention:

Taxable Year(s):

Based on preliminary audit work, it appears that the corporation and its subsidiaries may be unitary. If they were combined (on a worldwide basis) for the year(s) shown above, it might result in a change of their California franchise tax for those years

It appears that extensive work would be required to develop the facts necessary to support a change of these taxes. Due to staff limitations, I am not able to make an exact determination.

If the company desires to pursue a possible refund for the year(s) indicated above, a claim for refund, with complete supporting detail, should be prepared and submitted to me for each year that is not barred by the statute of limitations. I will review the information, and advise you of the result. Additional audit work may be required and may result in allowing or disallowing the claim or in proposing additional tax.

If I do not receive a statement of the corporation's position within 20 days, I will base my audit on (a domestic combination, or other basis) only and recommend whatever tax change is indicated.

If the corporation does not wish to pursue a tax change for these years, the Franchise Tax Board may make any adjustments necessary to properly reflect the California income in any future years.

**Auditor
Telephone number**

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6060 NOTICE OF PROPOSED ADJUSTED CARRYOVER AMOUNT

There are situations when the tax effect of an audit adjustment will occur in the future rather than the current audit cycle due to a reduction in carryover amounts. In such a situation, we must notify the taxpayer of the reduction in order to give them an opportunity to protest the adjustment currently if they choose. R&TC Section 19043.5 authorizes FTB to issue a Notice of Proposed Adjusted Carryover Amount (NPACA) when an examination results in a reduction of a taxpayer's reported carryover amount. NPACAs are treated as if they are proposed deficiency assessments (NPAs) and the taxpayer receives protest and appeal rights even though the exam does not result in any additional tax. Therefore, the NPACA must be issued prior to the expiration of the statute of limitations. (Please note the NPACA is only issued when the adjustment results in a reduction to a carryover amount, not an increase.)

The taxpayer may choose to protest and appeal the NPACA currently, or wait until the revised carryover results in an NPA in some later year. The benefit of protesting an NPACA and appealing to the State Board of Equalization (SBE) currently is that the taxpayer receives a binding and conclusive determination regarding the carryover item in a more timely manner. The SBE decision binds both FTB and the taxpayer to the amount of carryover adjustment with a few limited exceptions available in the statute. If the taxpayer does not follow the SBE decision in subsequent years, the FTB can issue a math error assessment to correct the carryover amount instead of an NPA.

The NPACA is a letter that contains the amount of the carryover reduction; the revised carryover amount; modified protest procedures and the protest deadline date. Auditors should clearly communicate the process and consequences of issuing NPACAs to taxpayers and their representatives since these notices are unique to California and there is no federal counterpart.

When to Issue the NPACA

- An NPACA should be issued when an audit results in no additional tax, but **reduces** a carryover item. (Refer to MAPM 5065 for guidance on what to do when a carryover item increases.) Regarding RARs, issue an NPACA when the RAR adjustments result in no additional California tax, but reduce a California carryover item.
- When an exam results in an NPA, a separate NPACA notice is not needed for any reduction in a carryover item for that same tax year. The carryover will be addressed in an NPA paragraph.
- When an exam of multiple years results in an adjustment to a carryover item in year 1 (or one or more of the early years within the current audit cycle) and in the subsequent

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year(s) an NPA is being issued to reflect the carryover adjustment, which results in additional tax, a separate NPACA notice is not needed for year 1. The carryover adjustment will be addressed in a paragraph, which will be included in the NPA issued for the subsequent year. Record an event indicating NPACA letter was not issued since the carryovers was reflected in the NPA issued for the subsequent tax year and complete the PASS Notice Window as though an NPACA was issued. Leave status on PASS Notice Window in Pending Release.

- When an exam of multiple years results in an NPA for year 1 (or one or more of the early years within the current audit cycle, or a combination of NPA and O/A for the earlier years within the current audit cycle) and an adjustment to a carryover item in subsequent year(s) an NPACA should be issued for the subsequent year within the current cycle if the tax effect of that adjusted carryover item will not be realized until a future year that is beyond the current audit cycle.
- When allowing a claim for refund in full, you must also issue an NPACA for any reduction in carryover items associated with that same tax year. (Refer to MAPM 10030) The NPACA must be issued by audit staff first, then forward the claim to B/E Technical Support to be processed.
- When a claim for refund is denied in whole or in part, an NPACA will be issued for any reduction in carryover items not associated with the issue on the claim. (Refer to MAPM 10030) *(Please note that the NPACA protest period must expire before the claim denial is processed.)*
- If a taxpayer files a claim for refund because of a credit or loss issue and the claim issue is being denied in whole or in part, the denial letter gives the taxpayer appeal rights on the carryover item. It is not necessary to issue an NPACA.

How to issue the NPACA

1. *****

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10. *****

11. *****

12. *****

13. *****

Protesting the NPACA

The Protest Unit will handle the protest of the NPACA. The Protest unit will close the case by issuing a NPACA NOA, a letter template also on PASS (1542a). * * * * *

Hearing Officers will add explanation of any revisions.

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Reviewed: January 2006

6065 NO CHANGE AUDITS

It is the practice of the department to issue "*No Change*" letters on ALL completed audit years that do not result in additional tax, an overassessment, an NPACA, or an increase in a carryover amount. No Change letters will be sent directly to the taxpayer. A copy of the letter should be sent to the representative if requested. No Change letters may either be issued by the auditor, or Audit Business Support.

The field and Central Office auditors will issue No Change letters as long as there are no related case units with adjustments. If there are related case units with other than no change adjustments, Audit Business Support will issue the No Change letter.

If the field auditor issues the No Change letter, make sure that the Audit Report - Form FTB 6430 clearly indicates that the letter **HAS** already been issued. A comment should also be made in the Event Log.

NOTE: Refer to your specific unit procedures (i.e., is lead/supervisory review required prior to the issuance of the No Change letter?).

NOTE: If Audit Business Support is to issue the letter, the Audit Report - Form FTB 6430 or Sticky Note **MUST** clearly indicate that the letter has **NOT** yet been issued. A comment **MUST** also be made in the Event Log.

For audits of multiple tax years, when an NPA is not being issued on all years under audit, the taxpayer must be informed of the year(s) that are being accepted without any change. This may be done either through the NoChange letter, or may be noted in a paragraph included on the NPA(s) that are issued.

No Change Issue

If an issue is a no change but there are other issues that are being adjusted, the auditor should inform the taxpayer of the conclusion of that particular issue in a position letter. The auditor does have the option of issuing an AIPS to inform the taxpayer that a particular issue resulted in a No Change. However, the auditor must prepare the AIPS in accordance with prescribed guidelines (i.e., outline the facts, law, analysis and conclusion), and that AIPS should not be listed in the AIPS log.

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6070 UNAGREED ADJUSTMENTS

If there is a disagreement with the auditor's proposed adjustments, the taxpayer or representative should be informed of the following protest and appeal procedures:

- The taxpayer has the option to file a protest.
- Protests must be filed in writing, within 60 days after the mailing of the Notice of Proposed Assessment.

Form **FTB 3531 PROTEST** may be used to file the protest.

- The taxpayer will be given an oral hearing, if requested. These hearings are informal and are normally conducted at one of the Franchise Tax Board offices located throughout California. If an oral hearing is not requested, the Hearing Officer assigned to the case will initiate correspondence to allow the taxpayer to submit additional information and/or documentation to properly resolve the case.
- After considering all available information, the Hearing Officer will issue a Notice of Action to withdraw, revise or affirm the proposed assessment. If the taxpayer disagrees with the Notice of Action to revise or affirm, the taxpayer has the option to file an appeal with the State Board of Equalization within 30 days from the date on the Notice of Action.
- If the Franchise Tax Board takes action to deny a claim for refund, the taxpayer has 90 days after the Claim Denial Letter is mailed to either file an appeal with the State Board of Equalization or initiate action in Superior Court.

For more information on claim procedures, see **MAPM 10000**.

6080 JEOPARDY ASSESSMENT

A jeopardy assessment is issued when the collection of any tax will be jeopardized by delay. The Chief Counsel of the Franchise Tax Board must approve all jeopardy assessments in writing. The department may demand that a return for a period be filed and the tax be paid immediately regardless of whether or not the return for the period covers a full taxable year of 12 months. Also, whether or not a demand for a return has been made, the department is authorized to estimate the taxpayer's income for such period upon the basis of any available information, and to assess the tax. Penalties for failure to file, and failure to file after notice and demand, may be assessed if applicable.

R&TC Sections 19081 - 19083 provide for the issuance of a jeopardy assessment, which is immediately due and payable, and provides rights for the taxpayer.

If a taxpayer files a petition for reassessment within 60 days after the jeopardy assessment is mailed, the department shall grant the taxpayer an oral hearing, if so requested. If no petition for reassessment is filed, the jeopardy assessment becomes final upon expiration of the 60-day period. The filing of a petition for reassessment does not stay collection. Collection may be stayed only by one of the following:

- 1) Filing a bond or other surety, or
- 2) Furnishing satisfactory evidence that jeopardy does not exist.

Acceptance of bonds and other sureties are the responsibility of Collections Section. Action required because jeopardy does not exist is the responsibility of Multistate Audit. The Protest Section will act upon a petition for reassessment and recommend a notice of action on the petition.

The amount of the bond required with a petition for reassessment to stay collection and prevent the assessment from becoming final will usually be in even dollars equal to the amount of tax and penalty together with interest to the date of payment on which the stay is desired. In the case of jeopardy assessments issued with respect to taxpayers that have made an assignment for the benefit of their creditors, the amount of the required bond will be equal to the tax and penalty, plus the amount of interest reasonably expected to accrue.

PROCEDURES FOR JEOPARDY ASSESSMENTS

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NOTE: ((* *)) = Indicates confidential and/or proprietary information that has been deleted.

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6090 NOTICE OF ACTION ON JEOPARDY ASSESSMENTS

NOTICE OF ACTION ON JEOPARDY ASSESSMENTS (form FTB 5933 and form FTB 5934)

The taxpayer may file a Petition to Reassess the Liability within five days of the date of the jeopardy assessment. A Notice of Action is issued to disclose the action taken by the department on the taxpayer's petition for reconsideration of a jeopardy assessment

The notice of action informs the taxpayer that if it they do not agree with the action taken, they may file an appeal with the Board of Equalization within 30 days of the date of the notice of action.

The notice of action for suspended corporations informs the taxpayer that notice and demand is made for payment of the additional liability and the corporation must be revived before it can file an appeal with the State Board of Equalization.

6100 PAYMENTS RECEIVED IN THE FIELD

Caution: When a taxpayer indicates that they want to make a payment, the auditor should check to see if the corporation is subject to Electronic Fund Transfer (EFT) and if so, inform the taxpayer of the penalty that will be imposed if payment is made by other than EFT. The EFT Help Desk is available to assist taxpayers with their EFT payment process.

When payments are received at audit, form FTB 6352 CORPORATION MEMORANDUM OF REMITTANCE, must be prepared in duplicate. The original and the remittance should be given to the cashier for routing to Receiving at Central Office. See **MAPM 7130** for instructions on how to complete the form.

The duplicate copy of form FTB 6352 should be stapled to the front of the form FTB 6430, to alert review that the assessment has been paid. In addition, the appropriate NPA paragraph should be used on the NPA worksheet.

Corporation Memorandum of Remittance forms are not required for Electronic Fund Transfer (EFT) payments.

Auditors should advise representatives of the approximate length of time (normally two to four months) it will take before they receive the NPAs and give them the opportunity to pay large proposed assessments at the close of the audit. Large payments may require payment by Electronic Funds Transfer (EFT).

Completed audits should be written up promptly. The taxpayer should be notified of any delay in issuing NPAs.

If the taxpayer makes a payment of the deficiency during the audit, the auditor should note the payment in event log on PASS, in the narrative report, on the 6830 NPA worksheet with the applicable NPA paragraph, and on the 6430 Audit Report Coversheet.

6110 PAYMENTS RECEIVED AT CENTRAL OFFICE

If a check is received, the following procedures should be followed:

- Document the receipt and purpose of the check on the event log.
- Make a photocopy of the check and the in-lieu remittance documents, (form FTB 6350A), and include it in the audit workpapers.
- The check should be hand carried to the Bank and Corporation receiving unit (Phase I).

6120 MINIMUM ADJUSTMENT

MINIMUM ADJUSTMENT ON NOTICE OF PROPOSED ASSESSMENTS:

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6130 NOTICE OF REVISION

Correspondence is often received in response to an NPA and is not recorded as protest. These letters vary in nature from acknowledging the correctness of an assessment, explaining some error to be corrected, or stating taxpayer is unable to pay.

Correspondence that raises an objection to an NPA adjustment, but does not constitute a protest may be handled by the issuance of a Notice of Revision if a revision or withdrawal is in order. If no adjustment is warranted, the letter must be answered. The reply should restate our views and point out that the NPA will become final 60 days from the date of issuance unless a protest is filed within that time.

If a revision is required, a Notice of Revision should be issued through BETS. For field auditors, contact the Technical Resource Section for appropriate action.

The Notice of Revision does not prolong the 60-day protest period.

Instructions for preparing the Notice of Revision are provided in MAPM 7140.

6140 POST-NPA CASES

Occasionally, after a notice is issued, the case is returned to the auditor for further factual development. Once the factual development is completed, the auditor will prepare a written recommendation to affirm, revise or withdraw the assessment. The case is then forwarded to Technical Resource Section for processing.

6150 AUDIT SUBJECT TO REVIEW

When the audit is completed, the auditor should inform the taxpayer's representative that review may disclose the need for more documentation, or changes to the auditor's recommendations. If the supervisor or reviewer changes the auditor's report, the auditor must notify the representative of the revision and provide revised schedules to the taxpayer.

CORPORATION REVIEW – TECHNICAL RESOURCE SECTION (TRS)

The TRS will serve as the final review on MSA field audit cases and certain Desk Audit cases. Prior review will have been performed by the audit supervisor who will be responsible for the quality of the audit and will indicate concurrence of the audit proposals by initialing the audit file.

The auditor's proposals will be reviewed to assure adherence with department policy on issues including, but not limited to, worldwide combination, water's-edge filing, use of multiple formulas and the use of special formulas.

For any variation from established policy, the auditor must clearly indicate a lack of significant tax change (plus or minus) or explain any other reason for the variation from policy. It is the responsibility of the reviewer to bring the applicable, correct policy to the attention of the audit supervisor involved.

ASSEMBLING THE CASE FOR TRS REVIEW

Before sending the case to TRS for review, please assemble as follows:

- Pink Rush Tag (Notifies anyone handling the case that it is a priority)
- Audit Report Cover Sheet (Form 6430)
- Notices
 - Over * * Memo, if needed
 - NPAs and/or O/As (Form 6830)
 - Formal Claim
- Narrative Report
- AIPS (If referenced in the narrative)
- Printed Schedules (Final Copy)

It is at the discretion of the auditor how the rest of the file should be assembled and in what order. Also, what items should be printed.

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RECEIPT OF AUDIT CASES IN REVIEW

As the audit cases are received, the Technical Resources Control Technician will log in the original returns on PASS. The cover sheet, form FTB 6430, will also be date-stamped at the same time to show date of receipt.

AUDIT ADJUSTMENTS

The TRS reviewer will serve as an independent analyst of the auditor's proposed adjustments as well as the application of a particular section of the law. The purpose is to ensure that the proposed adjustments are technically correct in light of the latest department position, FTB Legal Rulings, Board of Equalization Decisions, court cases, etc.

The audit of any taxpayer is generally the responsibility of the auditor and supervisor. It is not the reviewer's purpose to substitute for the audit supervisor or to second-guess an auditor's judgment in those areas where the auditor examines an item and relies on information developed in the audit to reach a reasonable conclusion. The reviewer will be concerned with an incorrect conclusion reached based on available information or proposals recommended based on incomplete information. The reviewer may want to take exception to an auditor's failure to act in a situation where available information indicates additional audit action was appropriate, particularly when the auditor does not provide the reasons for not acting.

Any exception to an auditor's recommendation will be directed to the auditor through the auditor's supervisor.

The auditor is responsible for the accuracy of the audit case, both mathematically and technically. Cases containing errors of either nature may be returned to the field auditor for correction.

AUDIT CASES NEEDING CORRECTIONS

Mathematical errors in schedules will be returned to the auditor for correction if they are significant and the work to correct them will require a significant amount of time. Minor changes to field audit schedules might be more efficiently corrected by the reviewer and, if so, the case need not be returned to the auditor for correction.

Some issues can be cleared up with a telephone call to the audit supervisor. If the item cannot be resolved in this manner, or if the reviewer feels there are too many issues or there is a significant item which needs clarification or correction, the reviewer should notify the audit supervisor in writing of the items in question. All issues in dispute should be set forth in detail in a memorandum to the respective audit supervisor. The case will then again be the responsibility of that field office for control purposes.

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Prior to returning a case to an auditor for correction of mathematical errors, the case will be reviewed for policy and for technical adjustment issues. This is to make sure all items in question are covered for correction in a single handling.

FORMS PROCESSING

Review will be responsible for the accuracy of the forms to permit in-house processing. Upon final review and approval, which will cover policy, technical issues, and any processing requirements, the Technical Resources Control Technician will route the file to the proper unit or section for disposition in accordance with the audit recommendation. The routing will include Claims Control Desk for overassessments, Business Entities Support-Typing on BETS processing for deficiencies, Business Entities Support for combined deficiencies and overassessments, and Business Entities Support for appropriate interest computations.

ITEMS THAT NEED TO BE CLARIFIED ARE AS FOLLOWS:

- Suspended corporations - NPA Paragraph 54477 must be on all NPA deficiency notices - refunds will not be issued. See **MAPM 6170**.
- Dissolved or merged corporations - must establish an active assumer for assessment purposes. Verify NPA heading for correct assumer/transferee name and address.
- Ensure payments received by field auditor have posted correctly. Enter appropriate payment paragraph on NPA worksheet.
- When a Walker letter (see **MAPM 6050**) has been issued, the statement "Do Not issue no change letter" should be written above the tax years on the audit report cover sheet, form FTB 6430.
- Ensure that the proper audit issue codes have been entered on the NPA worksheet.

RARS

If form FTB 6430 refers to an RAR, follow-up procedures may be necessary. If the RAR is pending and the corporation is headquartered outside California, the Technical Resources Control Technician will prepare a tickler control (form FTB 6216) and allow two years for follow-up. Data Services will make the necessary follow-up requests.

OFFSETS

RELATED NPAS AND O/AS

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If a case includes all related notices which should be kept together in one package (previously referred to as a consent package), then check the "Notice Related" boxes on all related Notice(s) of Proposed Overpayment worksheets.

AUTHORIZED OFFSET WITH RELATED NPAS AND O/AS

If the audit is agreed, contains only related notices, and the auditor has obtained **written** approval from the taxpayer, or representative to offset an overassessment to an assessment prior to expiration of the 60 days protest period:

1. Check the "Notice Related" boxes for all overassessment and deficiency assessment notices on all worksheets.
2. Write the word "OFFSET" on top of the overassessment worksheet(s) to indicate that the taxpayer's **written** authorization was received.

NPA and O/As with Unrelated Overassessment Notices

In the rare situation that the audit package contains unrelated overassessment notice(s) that should be refunded regardless if a protest is filed then,

1. Check the "Notice Unrelated" box associated with any overassessment notices that should be processed (refunded) regardless if a protest is filed.
2. Check the "Notice Related" box associated with any NPAs and O/As that should remain together.

COPY OF TAX RETURN

Occasionally, the field auditor will audit from the taxpayer's copy of the return. In such cases, the reviewer must verify that the pertinent information used by the auditor agrees with the original return as filed. This information would include net income, tax previously assessed, etc. The reviewer will enter the field auditor's initials on the return and must enter the return's DLN number where required on the NPA worksheet.

MIXED FILES

When the audit case includes both corporation returns and affiliated PIT returns, the TRS will complete its review of the corporate taxpayers and then forward the entire case to the inventory control desk in Business Entities Support for mixed files (NPAs and overassessments, claims, etc.) only for final processing of the audit case. If only NPAs are being issued, the file is sent to Business Entities for processing.

Before any completed review case leaves the TRS, the Technical Resources Control Technician should assemble it as follows:

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CALIFORNIA FRANCHISE TAX BOARD

- The number of notices must be entered on each form FTB 6830BCT by classification, e.g., NPA, O/A, N/A, etc.
- The form FTB 6830BCT with supporting schedules to be mailed are placed on top of the folder with the latest return or other document with the correct name and address of the corporation under the NPA worksheet. The audit report and workpapers are placed inside the folder. All other returns are placed inside the folder in chronological order with the latest year on top.
- Related PIT returns and audit report for the PIT account are placed behind the corporate folder. This group will be forwarded to PIT Audit to complete the processing.
- The route slip, form FTB 7000, is placed as the first document on top of all other documents with routing instructions clearly marked.

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6160 DEFERMENT OF FINAL ASSESSMENT OF NPAS

It is sometimes necessary to reconsider the correctness of an NPA as a result of correspondence or other data received immediately prior to the expiration of the protest period or before the NPAs are actually made final. Ordinarily, such NPA correspondence will require one of the following actions:

- Withdrawal or revision of the NPA.
- Determination that the letter should be treated as a protest. To be treated as a protest, the letter must have been dated within the 60 days provided by law.
- Determination that the NPA is correct and that the final assessment should be issued. The taxpayer must be notified by letter that the NPA is correct unless he has indicated agreement.

The auditor shall defer the final assessment, if necessary, by taking the file to the Protest Control Desk Technician and requesting that they place a "HOLD" on the notice. Field auditors should talk to their supervisor, who can coordinate with Central Office staff to arrange the appropriate action.

Also see **MAPM 11000** for protest information.

6170 SUSPENDED CORPORATIONS

A corporation may lose various rights if it is not in good standing with the FTB or the Secretary of State (SOS). Suspended or forfeited corporations are not able to file protests, appeals, or claims for refund, nor are they entitled to receive refunds (R&TC §23301, R&TC §23301.5 and R&TC §23301.6). It is important to identify potential problems early in the audit in order to give the taxpayer the opportunity to revive and get into good standing before the audit is completed. The auditor should check the status with either FTB or Secretary of State (SOS) by looking at BETS* * * or using the SOS web page at: <http://kepler.ss.ca.gov/list.html> for all taxpayers.

After identifying a suspended/forfeited corporation, the auditor should determine why the corporation was placed in that status. If the suspension/forfeiture is in error, the auditor is to have it returned to good standing.

The auditor can learn why a corporation is suspended or forfeited by contacting the Collection Liaison in the MSA Technical Resource Section. The Collection Liaison will relay the auditor's request to BE Collections to request their help in obtaining the requested information and returning a corporation to good standing if the suspension/forfeiture is in error. If the liaisons in BE Collections wish to work directly with the auditor requesting their assistance, they can do so after the auditor had initially gone through the Collection Liaison in TRS.

If it is determined that a corporation was properly placed in suspended or forfeited status, a separate NPA worksheet must be prepared. If the auditor determines that a suspend/forfeited corporation has an overassessment, the overassessment can be offset against a balance due. However, any excess cannot be refunded. The auditor, along with the audit supervisor, needs to determine, on a case-by-case basis, how to apply the over assessment. It can be to a balance due in another year for that entity, or to another entity in the combined group within the same year. The auditor or reviewer will need to add a comment to the "* * * *" in PASS informing Technical Support how to process the offset. In addition, a paragraph will need to be issued included on the notice informing the taxpayer of the entity suspended, that an offset was done and that the corporation will need to be restored to good standing before the expiration of the SOL before the excess, if any, can be refunded.

The taxpayer must be informed that in order for suspended/forfeited corporations to have protest rights or receive a refund, it needs to file an application for revivor for each suspended/forfeited corporation (FTB 3557).

Corporations in suspended or forfeited status by the SOS are also treated in the same manner as corporations that are suspended or forfeited by the Franchise Tax Board (FTB). The FTB will usually suspend a corporation, instead of forfeit, for reasons stated in the code sections

above. The SOS will either suspend or forfeit a corporation for reasons stated in R&TC §23302. You can identify the status of a corporation on BETS, * * * on the FTB Account Status or SOS Status Code line.

Note: Intrastate apportionment must be performed to determine the separate tax liability of the suspended/forfeited corporation.

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